

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Trader Joe's Company

(b) County of Residence of First Listed Plaintiff Los Angeles County  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Daniel E. Rhynhart, Esq., Mackenzie W. Smith, Esq., Blank Rome  
LLP, One Logan Square, Philadelphia, PA 19103 (215) 569-5371

**DEFENDANTS**

TJ's Delivery Service, Traffic Jams Delivery Service, Little  
Blue Commerce, LLC, and Does 1-10

County of Residence of First Listed Defendant Chester County  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Lanham Act, 15 U.S.C. 1114(1), 1125(a), and 1125(c)

Brief description of cause:

Trademark infringement and other causes of action arising from Defendants' infringement of Plaintiff's intellectual property rights

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**  
Preliminary Injunction

CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/09/2011

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

TRADER JOE'S COMPANY,  
Plaintiff,

CIVIL ACTION

v.  
TJ'S DELIVERY SERVICE, TRAFFIC JAMS DELIVERY  
SERVICE, LITTLE BLUE COMMERCE, LLC, and DOES 1-10,

Defendants.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☒

August 9, 2011

Daniel E. Rhynhart

Plaintiff

Date

Attorney-at-law

Attorney for

215-569-5371

215-832-5371

Rhynhart@BlankRome.com

Telephone

FAX Number

E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 800 South Shamrock Avenue, Monrovia, CA 91016

Address of Defendant: 3 Revere Road, Berwyn, PA 19312 and P.O. Box 596, Berwyn, PA 19312

Place of Accident, Incident or Transaction:

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) Lanham Act (Trademark)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify)

### ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Mackenzie W. Smith, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 08/09/2011

  
Attorney-at-Law

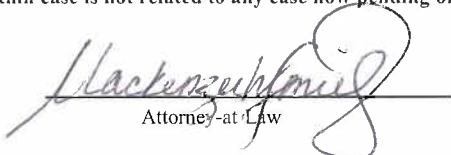
306685

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 08/09/2011

  
Attorney-at-Law

306685

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TRADER JOE'S COMPANY,

Plaintiff,

v.

TJ'S DELIVERY SERVICE, TRAFFIC  
JAMS DELIVERY SERVICE, LITTLE  
BLUE COMMERCE, LLC, and DOES 1-10,

Defendants.

Civil Action No.

**RULE 7.1 DISCLOSURE STATEMENT OF  
PLAINTIFF TRADER JOE'S COMPANY**

Plaintiff Trader Joe's Company ("Trader Joe's"), by and through its undersigned counsel, hereby makes the following disclosure pursuant to Rule 7.1 of the Federal Rules of Civil Procedure: Trader Joe's is a wholly-owned subsidiary of T.A.C.T. Holding, Inc., which is a wholly-owned subsidiary of a privately held German corporation. No publicly held corporation owns ten percent or more of Trader Joe's stock.

Respectfully submitted,

**BLANK ROME LLP**

Dated: August 9, 2011

By: 

Daniel E. Rhynhart  
Mackenzie W. Smith  
One Logan Square  
Philadelphia, PA 19103  
Telephone: 215-569-5371  
Facsimile: 215-832-5371  
Email: Rhynhart@blankrome.com

*Attorneys for Plaintiff,  
Trader Joe's Company*

**OF COUNSEL:**

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Jordan Raphael, Esq.  
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400 South Hope Street  
Los Angeles, CA 90071  
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Facsimile: 213-430-6407  
Email: bberliner@omm.com

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TRADER JOE'S COMPANY,

Plaintiff,

v.

TJ'S DELIVERY SERVICE, TRAFFIC  
JAMS DELIVERY SERVICE, LITTLE  
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Defendants.

Civil Action No.

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*Attorneys for Plaintiff,  
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**OF COUNSEL:**

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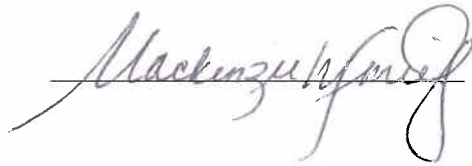
**CERTIFICATE OF SERVICE**

I hereby certify that on this 9<sup>th</sup> day of August, 2011, I caused a true and correct copy of the foregoing Initial Disclosure Statement of Trader Joe's Company pursuant to Federal Rule of Civil Procedure 7.1 to be served, via hand delivery today, or otherwise as soon as practicable upon the following Defendants, as follows:

TJ's Delivery Service  
3 Revere Road  
Berwyn, PA 19312

Traffic Jams Delivery Service  
3 Revere Road  
Berwyn, PA 19312

Little Blue Commerce, LLC  
3 Revere Road  
Berwyn, PA 19312

A handwritten signature in cursive script, appearing to read "Mackenzie Ford", written over a horizontal line.



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TRADER JOE’S COMPANY,

Plaintiff,

v.

TJ’S DELIVERY SERVICE, TRAFFIC  
JAMS DELIVERY SERVICE, LITTLE  
BLUE COMMERCE, LLC, and DOES 1-10,

Defendants.

Civil Action No.

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Trader Joe’s Company (“Trader Joe’s”), by its undersigned counsel, for its Complaint against Defendants TJ’s Delivery Service, Traffic Jams Delivery Service, and Little Blue Commerce, LLC (“Defendants”), hereby alleges, on knowledge as to its own conduct and otherwise on information and belief as follows:

**THE PARTIES**

1. Trader Joe’s Company is a California corporation with its principal place of business at 800 South Shamrock Avenue, Monrovia, California 91016. Trader Joe’s is engaged in the

business of selling high-quality groceries at low prices, including the sale of hundreds of its own products under the Trader Joe's brand. Trader Joe's owns numerous federally registered and common-law trademarks associated with its retail grocery chain and its products.

2. Upon information and belief, defendant TJ's Delivery Service is a company based in Berwyn, Pennsylvania with a mailing address at P.O. Box 596, Berwyn, Pennsylvania 19312.

3. Upon information and belief, defendant Traffic Jams Delivery Service is a company based in Berwyn, Pennsylvania with a mailing address at P.O. Box 596, Berwyn, Pennsylvania 19312.

4. Upon information and belief, defendant Little Blue Commerce, LLC is a limited liability company with a principal place of business at 3 Revere Road, Berwyn, Pennsylvania 19312.

5. Trader Joe's is ignorant of the true names and capacities of the defendants used herein under the fictitious names DOES 1 through 10 inclusive. Trader Joe's will seek leave of court to amend this complaint to allege such names and capacities when they are ascertained.

Trader Joe's is informed and believes, and based thereon alleges, that each of the fictitiously named DOE defendants is responsible in some manner for the wrongful conduct alleged herein. Trader Joe's further alleges that each defendant acted in concert with, as agent or representative for, or at the request or on the behalf of the defendants identified in paragraphs 2-4 above. Each charging allegation contained herein is, therefore, also hereby alleged against each fictitiously named DOE defendant.

#### **JURISDICTION AND VENUE**

6. This action asserts claims arising under the Lanham Act, 15 U.S.C. §§ 1114(1), 1125(a) and 1125(c). This Court has federal question jurisdiction over these claims pursuant

to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331, 1338(a) and 1338(b). This Court also has subject matter jurisdiction over Trader Joe's state law claims pursuant to the principles of pendant jurisdiction under 28 U.S.C. § 1367(a).

7. This Court has personal jurisdiction over Defendants because the Defendants, *inter alia*, transact business in the Commonwealth of Pennsylvania, engage in a persistent course of conduct in the Commonwealth of Pennsylvania, expect, or reasonably should expect, their acts to have legal consequences in the Commonwealth of Pennsylvania, and because Defendants' acts have caused harm to Trader Joe's in the Commonwealth of Pennsylvania.

8. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims asserted in this action occurred in the Eastern District of Pennsylvania, Defendants expect, or reasonably should expect, their acts to have legal consequences in the District, and because Defendants' acts have caused harm to Trader Joe's in the Eastern District of Pennsylvania.

### **FACTUAL BACKGROUND**

#### **The Trader Joe's Story**

9. Although Trader Joe's is one of the most popular grocery retailers in the United States today, it did not begin that way. Joe Coloumbe opened a chain of convenience stores in the Los Angeles area in 1958 called "Pronto Markets."

10. In 1967, Coloumbe changed the name and business design of the company. This was the first time the company used the name "Trader Joe's," and the stores became full grocery stores rather than convenience stores. Furthermore, it was at this time that Trader Joe's began using its famous "South Pacific" decorating theme.

11. Also in 1967, Trader Joe's began its search for the perfect products to sell. As a result of these efforts, the name "Trader Joe's" is synonymous today with high-quality, affordable groceries.

12. Today, there are more than 350 Trader Joe's grocery stores in 30 states and the District of Columbia. The widespread success of Trader Joe's is due in large part to its carefully cultivated reputation and its attention to the details of each product it sells.

**Trader Joe's Company's Intellectual Property Rights**

13. Trader Joe's has advertised for more than forty years over the radio, through its extensive monthly mailing list, and by word of mouth.

14. Trader Joe's also operates a website at the address [www.traderjoes.com](http://www.traderjoes.com), featuring its distinctive red lettering and Hawaiian theme. The Trader Joe's website receives 700,000 visitors monthly, which is a large number for a grocery store.

15. As a result of the great success of Trader Joe's and the vast advertising and promotional efforts and expenditures undertaken by Trader Joe's, the TRADER JOE'S trademarks have come to symbolize extraordinary goodwill and have achieved great fame throughout the United States.

16. The United States Patent and Trademark Office ("USPTO") has granted Trader Joe's Trademark Registration No. 2,171,157 for the trademark TRADER JOE'S for "retail store services in the field of specialty foods and beverages" in International Class 42. This registration is valid, subsisting and incontestable pursuant to 15 U.S.C. § 1065.

17. The fame and popularity of Trader Joe's and the TRADER JOE'S trademarks have generated very strong consumer demand for Trader Joe's-branded products and services.

Trader Joe's has obtained a number of United States trademark registrations for the TRADER

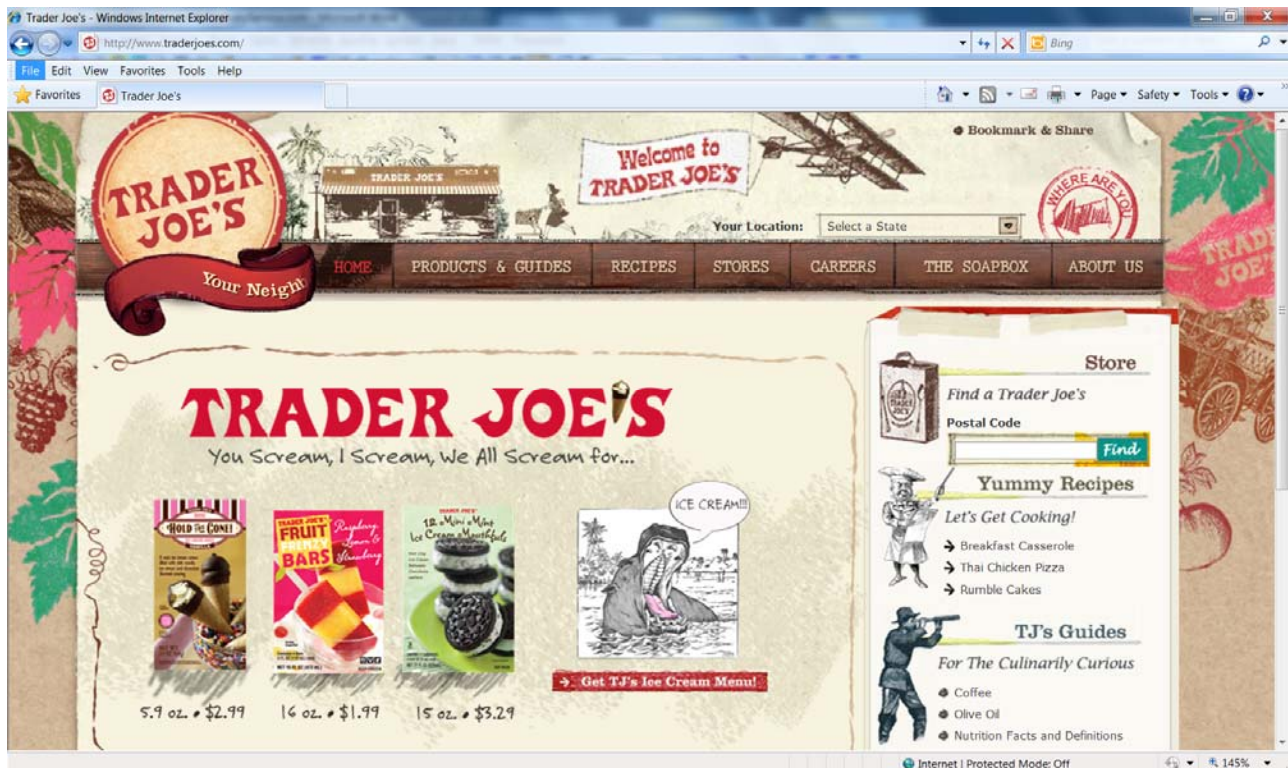
JOE'S trademarks used in connection with these Trader Joe's-branded goods and services, including, but not limited to Registration No. 2,160,601 in International Class 29 (meats and processed foods); Registration No. 1,424,176 in International Class 30 (staple foods); and Registration No. 2,158,990 in International Class 32 (light beverages). Each of these registrations are valid, subsisting and incontestable pursuant to 15 U.S.C. § 1065.

**DEFENDANTS' INFRINGEMENT OF  
TRADER JOE'S INTELLECTUAL PROPERTY RIGHTS**

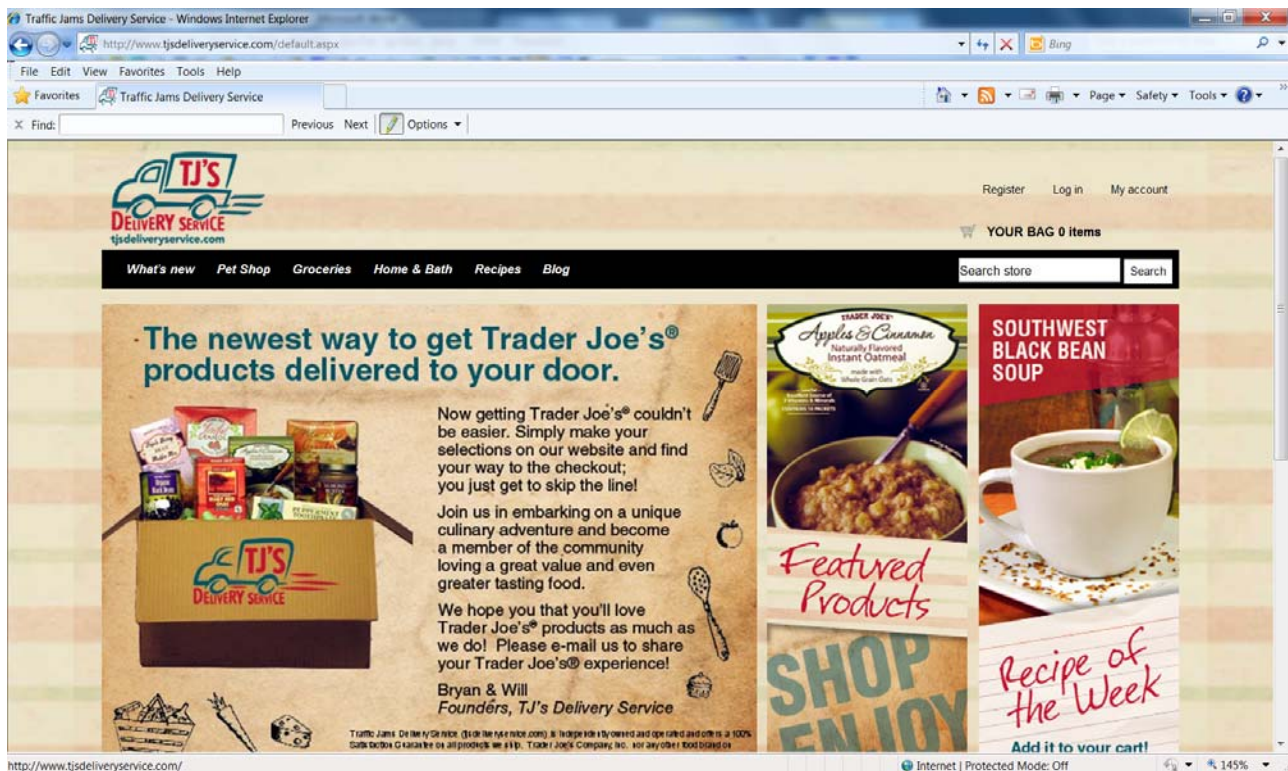
18. Defendants own and operate a website at the address [www.tjsdeliveryservice.com](http://www.tjsdeliveryservice.com) (the "Infringing Website"), which promotes itself as "the newest way to get Trader Joe's® products delivered to your door." Without Trader Joe's authorization or permission, Defendants' website offers for resale and delivery hundreds of Trader Joe's products that, upon information and belief, Defendants purchase directly from Trader Joe's stores.

19. From top to bottom, the Infringing Website incorporates Trader Joe's trademarks, the abbreviation "TJ's" (a common nickname for "Trader Joe's"), retail product images, and design elements (*e.g.*, beige background, red typeface) that are owned by and/or publicly associated with Trader Joe's in a clear attempt to convey the false impression that the site is affiliated with or endorsed by Trader Joe's. The extent to which Defendants are seeking to trade off Trader Joe's reputation and goodwill is readily demonstrated by the following screenshots of Trader Joe's and Defendants' respective websites:





www.traderjoes.com front page



www.tjsdeliveryservice.com front page

20. In addition to their unpermitted and deceptive use of Trader Joe's trademarks and other source-identifying elements, Defendants' unauthorized reselling and shipping of Trader Joe's products are conducted outside the scope of Trader Joe's stringent quality-control standards and established product recall practices. Thus, Defendants' infringing activities create a material risk that consumers who buy Trader Joe's products from Defendants' website could receive defective or even potentially hazardous goods. This risk of harm is exacerbated by the fact that Defendants have announced that they will soon begin shipping frozen and fresh Trader Joe's products. By creating this risk, Defendants' activities also threaten the reputation and goodwill that Trader Joe's has carefully cultivated over the last 40 years.

**COUNT ONE – FEDERAL TRADEMARK INFRINGEMENT**  
**(15 U.S.C. § 1114(1))**

21. Trader Joe's repeats and realleges each and every allegation contained in paragraphs 1 through 20, inclusive, and incorporates them herein by reference.

22. Defendants' unauthorized and willful use of copies, variations, reproductions, simulations or colorable imitations of Trader Joe's federally-registered trademarks in connection with the presentation, content, and operation of the Infringing Website constitutes use in commerce. Such use infringes Trader Joe's exclusive rights in its federally-registered trademarks, explicitly misleads as to the source or sponsorship of the Infringing Website, and has caused and is likely to cause confusion, mistake or deception as to the source of the Infringing Website created, designed, and operated solely by Defendants.

23. The aforesaid acts of Defendants, namely, the unauthorized and willful use of copies, variations, reproductions, simulations or colorable imitations of Trader Joe's registered marks in connection with the presentation, content, and operation of the Infringing Website,

constitute trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

24. The aforesaid acts of Defendants have caused and, unless said acts are restrained by this Court, will continue to cause Trader Joe's to suffer irreparable injury.

25. Trader Joe's has no adequate remedy at law and is therefore entitled to preliminary and permanent injunctive relief.

**COUNT TWO – UNFAIR COMPETITION, FALSE ENDORSEMENT AND FALSE  
DESIGNATION OF ORIGIN**  
**(15 U.S.C. § 1125(a)(1)(A))**

26. Trader Joe's repeats and realleges each and every allegation contained in paragraphs 1 through 25, inclusive, and incorporates them herein by reference.

27. Through the use of Trader Joe's trademarks, the abbreviation "TJ's," retail product images, and design elements that are owned by and/or publicly associated with Trader Joe's, Defendants are knowingly and intentionally misrepresenting and falsely designating to the general public the affiliation, connection, association, origin, source, sponsorship, endorsement and approval of the Infringing Website, and intend to misrepresent and falsely designate to the general public the affiliation, connection, association, origin, source, approval, endorsement or sponsorship of the Infringing Website, so as to create a likelihood of confusion by the public as to the affiliation, connection, association, origin, source, approval, endorsement and sponsorship of the Infringing Website.

28. The aforesaid acts of Defendants constitute false endorsement, false designation of origin and unfair competition in violation of 15 U.S.C. § 1125(a)(1)(A).

29. As a direct and proximate result of the foregoing acts of Defendants, Trader Joe's has been damaged and has suffered and will continue to suffer immediate and irreparable injury.



30. Trader Joe's has no adequate remedy at law and is therefore entitled to preliminary and permanent injunctive relief.

**COUNT THREE – FALSE ADVERTISING**  
**(15 U.S.C. § 1125(a)(1)(B))**

31. Trader Joe's repeats and realleges each and every allegation contained in paragraphs 1 through 30, inclusive, and incorporates them herein by reference.

32. Through the use of Trader Joe's trademarks, the abbreviation "TJ's," retail product images, and design elements that are owned by and/or publicly associated with Trader Joe's, Defendants are knowingly and intentionally misrepresenting the nature, characteristics, and qualities of the Infringing Website, and intend to misrepresent the nature, characteristics, and qualities of the Infringing Website, so as to create a likelihood of confusion by the public as to the nature, characteristics, and qualities of the Infringing Website.

33. The aforesaid acts of Defendants constitute false advertising in violation of 15 U.S.C. § 1125(a)(1)(B).

34. As a direct and proximate result of the foregoing acts of Defendants, Trader Joe's has been damaged and has suffered and will continue to suffer immediate and irreparable injury.

35. Trader Joe's has no adequate remedy at law and is therefore entitled to preliminary and permanent injunctive relief.

**COUNT FOUR – FEDERAL TRADEMARK DILUTION**  
**(15 U.S.C. § 1125(C))**

36. Trader Joe's repeats and realleges each and every allegation contained in paragraphs 1 through 35 as if fully set forth herein.

37. Defendants' use of copies, variations, reproductions, simulations or colorable imitations of the TRADER JOE'S trademarks in connection with the Infringing Website will

lessen the capacity of Trader Joe's famous and distinctive trademarks to distinguish Trader Joe's products and services from those of others, and has and will dilute and tarnish the distinctive quality of Trader Joe's famous and distinctive TRADER JOE'S trademarks.

38. The aforesaid acts of Defendants constitute dilution by blurring by whittling away the distinctiveness of Trader Joe's famous marks and dilution by tarnishment in violation or Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

39. As a direct and proximate result of the foregoing acts of Defendants, Trader Joe's has been damaged and has suffered and will continue to suffer immediate and irreparable injury.

40. Trader Joe's has no adequate remedy at law and is therefore entitled to preliminary and permanent injunctive relief.

**COUNT FIVE — INJURY TO BUSINESS OR REPUTATION; DILUTION**  
**(54 PA. CONS. STAT. ANNOT. § 1124)**

41. Trader Joe's repeats and realleges each and every allegation contained in paragraphs 1 through 40 as if fully set forth herein.

42. The TRADER JOE'S trademarks are individually and collectively famous in the Commonwealth of Pennsylvania.

43. The TRADER JOE'S trademarks were famous in the Commonwealth of Pennsylvania prior to Defendants' past, present and threatened use of the TRADER JOE'S trademarks in connection with the Infringing Website, which use injures and will injure the business reputation that Trader Joe's enjoys in the Commonwealth, and impairs, diminishes, and trades on the TRADER JOE'S trademarks, which identify Trader Joe's goods and services.

44. Defendants' conduct injures and dilutes, or is intended to injure and dilute, Trader Joe's reputation and the distinctive quality of the TRADER JOE'S trademarks, in violation of 54 Pa. Cons. Stat. Annot. § 1124.

45. As a direct and proximate result of the foregoing acts of Defendants, Trader Joe's has been damaged and has suffered and will continue to suffer immediate and irreparable injury.

46. Trader Joe's has no adequate remedy at law and is therefore entitled to preliminary and permanent injunctive relief.

**COUNT SIX — PENNSYLVANIA COMMON LAW UNFAIR COMPETITION**

47. Trader Joe's repeats and realleges each and every allegation contained in paragraphs 1 through 46 as if fully set forth herein.

48. Defendants' above-described acts constitute unfair competition under the common law of the Commonwealth of Pennsylvania.

49. Defendants' use of the TRADER JOE'S trademarks and colorable imitations thereof are likely to cause confusion, mistake or deception among consumers as to the source, sponsorship, or affiliation of the Infringing Website, in violation of the common law of the Commonwealth of Pennsylvania.

50. As a direct and proximate result of the foregoing acts of Defendants, Trader Joe's has been damaged and has suffered and will continue to suffer immediate and irreparable injury.

51. Trader Joe's has no adequate remedy at law and is therefore entitled to preliminary and permanent injunctive relief.

**RELIEF SOUGHT**

WHEREFORE, Plaintiff Trader Joe's prays that:

A. Judgment be entered in favor of Trader Joe's and against Defendants as to each of the above Counts;

B. Defendants pays damages incurred by Trader Joe's as a result of the trademark infringement, false designation of origin, false endorsement, false advertising, unfair competition, injury to business reputation and dilution perpetrated by Defendants, including, in the case of Defendants' violation of 15 U.S.C. § 1125(a), treble damages or treble profits, whichever is greater, and attorney's fees;

C. An accounting be ordered to determine the profits realized by Defendants due to the unauthorized use of the TRADER JOE'S trademarks and Defendants' other infringing activities in the operation of the Infringing Website;

D. The Court issue a preliminary injunction restraining, enjoining and prohibiting Defendants and any of their officers, directors, agents, servants, employees, representatives, successors, assigns, attorneys, licensees, distributors and all persons in active concert or participation with Defendants from directly or indirectly:

- i. using the TRADER JOE'S trademarks or any confusingly similar designations, alone or in combination with other words, as a trademark, service mark or trade name, to identify, market, distribute, advertise, promote, to offer for sale or to provide the Infringing Website or any related goods or services;
- ii. otherwise infringing the TRADER JOE'S trademarks;
- iii. engaging in the unauthorized offering for resale and delivery of Trader Joe's products; and

iv. continuing acts of false designation of origin or unfair trade practices herein complained of, or doing any acts that may cause consumers to falsely believe that Defendants' goods or services are affiliated with, associated with, authorized by, sponsored by, and/or endorsed by Trader Joe's.

E. The Court issue a permanent injunction prohibiting Defendants from directly or indirectly infringing the TRADER JOE'S trademarks, and in any manner unfairly competing with Trader Joe's; and from inducing, or contributing to or participating in any such acts referred to in Part D of this prayer;

F. Defendants be directed to file with this Court and to serve on Trader Joe's within ten (10) days after issuance of an injunction, a report in writing, under oath, setting forth in detail the manner and form in which Defendants have complied with the injunction;

G. Defendants be required to deliver up for destruction all goods, signs, packaging, literature, advertising and other materials bearing the TRADER JOE'S trademarks or any confusingly similar name or mark, or colorable imitation thereof, used in connection with the Infringing Website;

H. Defendants be required to remove the TRADER JOE'S trademarks and any other elements likely to cause confusion with Trader Joe's from the Infringing Website, the Infringing Website's URL, HTML code, search engine query terms, search engine advertising keywords, and any other electronic communications hosts, links and devices;

I. Defendants be ordered to pay costs of this action, including attorney's fees incurred by Trader Joe's in connection with Defendants' infringement; and

J. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

**BLANK ROME LLP**

Dated: August 9, 2011

By: 

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**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Trader Joe's Company demands a trial by jury on all issues.

Respectfully submitted,

**BLANK ROME LLP**

Dated: August 9, 2011

By: 

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